C.S. 2001

IN THE HIGH COURT OF JUDICATURE AT BILASPUR, CHHATTISGARH
Writ Petition No. 62/3 of 2005

PETITIONERS :

1. Gajendra Panika, son of Shri Brijmohan Ram, aged 20 years, Occupation Waiter in Jaiswal Hotel, Ambikapur, r/o. village and Post - Umako, P.S. Kusmi, Tehsil Samri, District Sarguja (C.G.).

P.R. No. 62691/25 Presented by Manoj Mishra dated 6/1/2005

2. Basant alias Kanhiya, son of Shri Chandrika Singh, aged 18 years, Occupation Waiter in Jaiswal Hotel, Ambikapur, r/o. village Silfili, P.S. Pratappur, Post Karsi, Distt. Sarguja (CG.)

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- Versus -

RESPONDENTS:

1). State of Chhattisgarh, through Home Secretary, Mantralaya, D.K.S. Bhawan, Raipur (C.G.).

2). Director General of Police, Police Headquarters, Raipur (C.G.)

3). Superintendent of Police, Sarguja, District at Ambikapur(C.G).

4). Lal Ummed Singh, City Superintendent of Police, Ambikapur, District Sarguja. (C.G.)

5). D.K. Singh, Town Inspector, Police Station Ambikapur, Distt. Sarguja (C.G.)

6). Khagesh, Police Constable, Police Line, Ambikapur, Distt. Sarguja (C.G.)

WRIT PETITION UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA FOR ISSUANCE OF APPROPRIATE DIRECTION, WRIT OR ORDER TO DO JUSTICE IN THE MATTER

XI-HC-22

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

आदेश पत्रक

मामला क्रमांक W.P. NO. 6213/05 **सन् 200**

..... **विरुद्ध** .....

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

07/08/2006

Shri P Diwakar, Senior Advocate with Shri Manoj Mishra, counsel for the petitioners.

Shri Arun Sao, Government Advocate for respondents No.1 to 3 / State.

Shri Prashant Mishra, Sr. Advocate for respondents No.4 & 5.

Shri Rakesh Jha, counsel for respondent No.6.

Heard.

Jaiswal Hotel, Ambikapur, is a restaurant where vegetarian meals are served. On 12/10/2005 i.e., the day of Dushera festival at around 10.30 p.m. Police constable Khagesh accompanied with Vijay Ambust visit ed the restaurant to buy Paneer Curry, at that time in restaurant some families along with their kids were taking meals, Proprietor of the Hotel, Shyam Lal Jaiswal, and other employees of the hotel were present. A quarrel, all of a sudden, erupted on account of supply of vegetable curry which turned into a fight. On information received at Police Station: Ambkilapur, Police party rushed to the spot. On the report of Police Constable Khagesh who was injured an offence under Sections 307, 342 read with Section 34 of the IPC against Shyamlal Jaiswal and his staff namely Ravindra

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Kumar, Kaushal Prasad, Dheeraj Kumar, Ajaun Singh Maravi, Rajeev Yadav, Shyama Prajapati, Pradeep Mandal, Bhupendra Patel, Rajesh Guru, Devi Singh and Basant, has been registered and Police Constable Khagesh was medically examined. Kaushal Prasad Prajapati - Manager of the restaurant also lodged a first information report against Police Constable Khagesh and his one companion, that was registered under Sections 294, 323 read with Section 34 of the IPC. Petitioners did not lodge first information report.

As per petitioners' version Police Constable Khagesh was in a heavily drunken condition who was hurling abuses and was misbehaving with the customers, when he was asked to behave properly by the proprietor of the restaurant Shyamlal Jaiswal, he did not care to it, therefore, Shyamlal Jaiswal gave information to Police Station, Ambikapur on his mobile phone. In the meanwhile, Police Constable Khagesh also gave information to Police Officials on his mobile phone. Within five minutes thereof Police party headed by respondent No.4 Lal Ummed Singh, City Superintendent of Police, Ambikapur and respondent No.5 D.K. Singh, Town Inspector, Police Station: Ambikapur arrived to the spot in police jeep and thereafter on their direction, Police officials started beating the servants of the

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restaurant. Shyamlal Jaiswal was also badly beaten by D.K. Singh, Town Inspector. Petitioner No.1 Gajendra Panika was assaulted by knife who received incised wound on iliac fossa, intestine protruding from the wound. He was so much frightened that having serious pain he took shelter for his safety in the first floor of the restaurant in a store room of kitchen and he was rescued next day at 10.00 a.m. and was hospitalized for treatment.

Petitioner No.2 Basant @ Kanhaiya was subjected to assault by the Police party at the instance of respondent No.5 D.K. Singh, who also assaulted him by fist blows. He was also assaulted by knife on his back of chest and on left arm. Incised wounds have been caused and it was bleeding profusely. Shyamlal Jaiswal was badly beaten by D.K. Singh. The brutal atrocities were committed by Police officials in the direct supervision of respondents No.4 and 5 who were virtually authors of the assault.

Police in order to escape from the Police atrocity, registered a false case on the false report of Police Constable Khagesh under Sections 307, 147 and 149 of the IPC and also a false report has been registered showing the complainant Kaushal Prasad Prajapati.

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	Both the petitioners received severe injures and were hospitalized for treatment. No offence has been registered against the author of the crime committed against the petitioners. There were several representations made to Director General of Police and other police officials, but no action has been taken in that regard. Therefore, this petition has been filed seeking various reliefs. Respondents No. 1 to 3 denied the allegations regarding the Police atrocity and submitted in their return that one Police Constable Khagesh had gone to restaurant of Shyamlal Jaiswal to buy vegetable curry where some altercation took place; that resulted in fight. On being informed Police rushed to the spot and took all the persons involved in the fight to Police Station, injured persons were sent to hospital. On the report of Police Constable Khagesh Crime No. 690/2005 has been registered and on the report of Kaushal Prasad Prajapati, Crime No.691/2005 has been registered. Both the petitioners did not lodge any first information report nor they sent any complaint through registered post to Superintendent of Police as envisaged under Section 154 of the Cr.P.C., even they did not file any complaint case against respondents No. 4 and 5.	

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From perusal of Annexure P/4, it is evident that petitioner No.2 Basant alias Kanhiya was sent for medical examination through Sainik Rajivram of Police Station, Ambikapur. When he was brought to hospital, he was unconscious having incised wound on right side of back side of chest 2 cm x 0.25 cm deep, incised wound left arm with swelling 2 cm x 0.25 cm deep. He was admitted in hospital on 13/10/2005. Annexure P/3 clearly shows that petitioner No.1 Gajendra was admitted in Government hospital for treatment on 13/10/2005 who was injured having MLC injuries on abdomen. He was operated for exploratory Laprotomy. From Annexure P/1, it is evident that wound on iliac fossa with intestine protruding was found. It is also evident that he was admitted on 13/10/2005 and was discharged on 26/10/2005.

Learned counsel for the petitioners contended that both the petitioners received fatal injuries caused by sharp weapon which is evident from their treatment papers (Annexures P/1 to P/5). Medical Officers treated both the cases as Medico legal cases within the knowledge of Police administration. Both the petitioners received fatal injuries as a result of Police atrocity, but no investigation has been done by the Police and even Police authority to escape

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themselves have falsely concocted a case on the report of Police Constable Khagesh. On the contrary, learned counsel for respondents contended that both the petitioners did not lodge any report, therefore, no investigation regarding their injuries, has been done by the Police. Respondents No. 4 and 5 have been falsely charged by the petitioners.

Prima facie, it is evident that both the petitioners have received injuries by sharp cutting weapon and apparently the injury caused to petitioner No.1 Gajendra appears to be serious. Admittedly, who is the author of the injuries caused to both the petitioners, to detect it no investigation has been initiated or conducted by the Police.. When, prima facie, it is evident that both the petitioners received such serious injuries during the course of alleged incident, it is necessary that the perpetrator of the injuries should be detected and prosecuted.

Taking into account the nature of injuries and the allegations made against the Police Officials, it is directed that if both the petitioners prefer to lodge their report to the Police, Station House Officer, Ambikapur, shall record their reports in detail and first information report so recorded, shall be investigated by any of the

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superior Police officer not below the rank of Additional Superintendent of Police. It is further directed that both the petitioners should lodge their reports as early as possible, preferably within 15 days and the Investigating Officer shall complete his investigation by next three months from the date of registration of the first information report.

With the aforesaid direction and observation, the petition stands disposed of.

In the light of above order, IA No.3178/2006 & 1767/2006 stand disposed of.

Sd/-
V.K.Shrivastava
Judge

Raju

14.8.06

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